

1 ROBERT S. MUELLER, III (CSBN 39775)
2 United States Attorney

[Signature]
Filed

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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 **CR 01 20068** *JW*

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 BENNY CHEUNG,

16 Defendant.

No. VIOLATIONS: 18 U.S.C. § 1343 - Wire
Fraud; 18 U.S.C. § 1341 - Mail Fraud

SAN JOSE VENUE

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18 INDICTMENT

19 The Grand Jury charges:

20 BACKGROUND

21 1. On or about and between September 25, 1999 and April 2, 2000, both dates being
22 approximate and inclusive, in the Northern District of California, and elsewhere, the defendant

23 BENNY CHEUNG

24 did devise and intend to devise a scheme and artifice to defraud and for obtaining money and
25 property by means of false and fraudulent pretenses, representations and promises.

26 2. The scheme and artifice to defraud was carried out in the following manner:

27 a. Defendant registered under different aliases with an online auction company,
28 eBay, Inc., which is located in San Jose, California.

INDICTMENT

1 b. Defendant posted a number of items for sale on eBay and he offered to sell
2 a variety of types of merchandise, including a watch, a laptop computer, and leather goods, and by
3 doing so, caused certain eBay users to place bids on the merchandise.

4 c. Defendant failed to disclose the material facts that he either did not have the
5 items he was offering for sale, or that the items he was offering for sale were not genuine items as
6 he had described on the auction site.

7 d. Defendant contacted certain bidders by e-mail and instructed them to mail a
8 cashier's check or money order for the amount to an address in the Northern District of California.
9 Defendant falsely and fraudulently represented that he would send the winning bidders the
10 merchandise they had purchased once defendant received their payment for the goods.

11 e. Defendant deposited the checks sent by the winning bidders into an account
12 controlled by family members and directed a family member to provide him the funds.

13 f. Defendant failed to deliver the merchandise advertised in the auction listings
14 or delivered merchandise that did not meet the description of the merchandise described in the
15 auction listing.

16 g. When victims contacted the defendant because they had not received the
17 merchandise, or because they realized the merchandise they had received was not the merchandise
18 for which they had paid, the defendant either falsely represented that he had shipped the merchandise
19 or ignored the victims' inquiries.

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21 COUNTS ONE AND TWO (18 U.S.C. § 1341 - Wire Fraud):

22 3. Paragraphs One and Two are realleged and incorporated in Counts One and Two.

23 4. On or about the dates set forth below, in the Northern District of California and
24 elsewhere, the defendant

25 **BENNY CHEUNG**

26 having devised and intended to devise the aforesaid scheme and artifice to defraud, and for obtaining
27 money and property by means of false and fraudulent pretenses, representations, and promises, did
28 knowingly transmit and cause to be transmitted by means of wire communication in interstate

1 commerce, writings, signs, and signals for the purpose of executing such scheme or artifice as
2 follows in violation of Title 18, United States Code, Section 1343:

Count	Approximate Date	Sender	Recipient	Contents
1.	11/21/1999	eBay, Inc. San Jose, CA	Miguel Sosa Coral Gables, FL	Notification of successful high bid
2.	11/25/1999	William Reed Shawnee Mission, KS	Benny Cheung Millbrae, CA	Offer to Purchase

10 COUNTS THREE AND FOUR (18 U.S.C. § 1341 - Mail Fraud)

11 5. Paragraphs One and Two are realleged and incorporated in Counts Three and Four.

12 6. On or about the dates set forth below, within the Northern District of California and
13 elsewhere, the defendant

14 **BENNY CHEUNG**

15 having devised and intended to devise the aforesaid scheme and artifice to defraud, and for obtaining
16 money by means of false and fraudulent pretenses, representations, and promises, did knowingly
17 cause cashiers checks from the persons identified below to be delivered by United States mail
18 according to the directions thereon, to the defendant at the addresses listed below in violation of Title
19

1 18, United States Code, Section 1341:

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Count	Approximate Date	Sender	Receiving Address
3.	11/22/1999	Miguel Sosa	104 Hillcrest Blvd, Apt. 11 Millbrae, California 94030
4.	11/26/1999	William Reed	2833 Oliver Drive #108 Hayward, CA 94545

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9 DATED:

4/25/01

A TRUE BILL

[Signature]
FOREPERSON

11 ROBERT S. MUELLER, III
12 United States Attorney

13 *[Signature]*
14 ELIZABETH DE LA VEGA
15 Chief, San Jose Division

16 (Approved as to form: *[Signature]*)

AUSA Scott Frewing

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INDICTMENT